THE BOMBAY BORSTAL SCHOOLS ACT, 1929.

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BOMBAY ACT No. XVIII OF 1929.[1]

[THE BOMBAY BORSTAL SCHOOLS ACT, 1929.]

[*25th November 1929.*]

Amended by Bom. 10 of 1932.
" " " 3 of 1934.
" " " 18 of 1935.
" " " 2 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 39 of 1948.

An Act to provide for the establishment of Borstal Schools in the Presidency of Bombay.

WHEREAS it is expedient to provide for the establishment of Borstal schools in the Presidency of Bombay; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

& 6 Geo. V, c. 61.

1. This Act may be called the Bombay Borstal Schools Act, 1929. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commencement.

(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint in this behalf.

3. In this Act, unless there is anything repugnant in the subject or context :— Definitions.

(*a*) " Borstal school " means a place in which young offenders, whilst detained in pursuance of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(*b*) " Inspector-General " means the Inspector-General of Prisons and includes any officer appointed by the [2][Provincial Government] to perform all or any of the duties imposed by this Act on the Inspector-General;

(*c*) " prescribed " means prescribed by rules made under this Act.

4. (*1*) For the purposes of this Act the [2][Provincial Government] may establish one or more Borstal schools. Establishment of Borstal schools.

(*2*) For every Borstal school, a visiting committee shall be appointed in such manner as may be prescribed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 129; for Report of the Select Committee, *see ibid.*, 1929, Part V, p. 143, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vols. XXVI and XXVII.

[2] The words " Provincial Government " were substituted for the words " Governor in Council " by the Adaptation of Indian Laws Order in Council.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the [1]Prisons Act, 1894, and the [1]Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. IX of 1894. III of 1900.

Court may pass order for detention in a Borstal school.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898, whether any previous conviction is proved against him or not, and it appears to the Court— V of 1898.

(*a*) that the offender is not less than sixteen or, in any district or place in which the Bombay Children Act 1924, is not in operation less than fifteen, nor more than twenty-one years of age ; and Bom. XIII of 1924.

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1898, an order for the detention of the offender in a Borstal school [2][established under this Act or subject to the provisions of section 13-A, in a Borstal school in any other province in British India] for such term, not being less than [3][three] years nor more than five years, as the Court subject to rules made under this Act, thinks fit : V of 1898.

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in [4][such Borstal school], and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Power of Provincial Government to exempt.

7. The [5][Provincial Government] may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal school.

Courts empowered to pass order for detention.

8. The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a sub-divisional Magistrate, a salaried Presidency Magistrate, or a Magistrate of the first class and may be exercised by such Courts whether the case comes before them originally, or on appeal or in revision.

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[1] *See* Central Acts.

[2] These words, figures and letter was inserted by Bom. 2 of 1936, s. 2 (*1*).

[3] The word "three" was substituted for the word "two" by Bom. 17 of 1935, s. 2.

[4] The words "such Borstal school" were substituted for the words "a Borstal school" by Bom. 2 of 1936, s. 2 (*2*).

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (*1*) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure, 1898, is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate or the Chief Presidency Magistrate, as the case may be, to whom he is subordinate.

V of 1898.

(*2*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, or, as the case may be, to a salaried Presidency Magistrate.

(*3*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation on powers conferred by section 6.

10. Any offender detained in a Borstal school for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

V of 1898.

Transfer from prison to Borstal school.

[1]**11.** (*1*) If the Inspector-General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence [2][passed under any law or undergoing imprisonment under an order made under section 123 of the Code of Criminal Procedure, 1898, for failure to give security] being within the limits of age within which persons may be ordered to be detained in a Borstal school, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal school, the Inspector-General may by order in writing direct such person to be transferred from prison to a Borstal school [3][established under this Act or subject to the provisions of section 13A, to a Borstal school in any other province in British India] and to be detained in such school, in lieu of the unexpired residue of his sentence, [4][or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be,] for such period as together with the period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have been ordered to be detained by a Court under section 6 :

V of 1898.

Provided that the Inspector-General shall not, without the previous sanction of [5][the Provincial Government], direct such person to be detained in a Borstal school for a period which including the period of imprisonment or transportation undergone exceeds the period of imprisonment or transportation to which such person has been sentenced [4][or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be].

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[1] This section was substituted for the original s. 11 by Bom. 3 of 1934, s. 2.
[2] These words were substituted for the original by Bom. 39 of 1948, s. 2.
[3] These words, figures and letter were inserted by Bom. 2 of 1936, s. 3.
[4] These words were inserted by Bom. 39 of 1948, s. 2.
[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) A person transferred to a Borstal school under sub-section (*1*) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of section 6 and the provisions of the Act shall apply to such person accordingly.

Transfer of incorrigibles, etc., to prison.

12. (*1*) Where an offender detained in a Borstal school escapes, or is reported to the [1][Provincial Government] by the Inspector-General to be incorrigible or to exercise [2][or to be likely to exercise] a bad influence on the other inmates of the school, [3][or to be more than twenty years of age], [4][or where a licence granted under section 14 is revoked by the Provincial Government under clause (ii) of the proviso to sub-section (*1*) of section 15 or is, in the opinion of the Provincial Government, otherwise unsuitable for training in a Borstal school], the [1][Provincial Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the [1][Provincial Government] may determine, but in no case exceeding the shorter of the following two periods :—

(*a*) the unexpired residue of the term of detention, or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal school [5][or ordered to be transferred to and detained in such school by the Inspector-General].

(*2*) Such offender may be confined in any prison within the Bombay Presidency by warrant under the hand of a Secretary to [6][the Provincial Government] and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Provincial Government to determine the Borstal school in which a person shall be detained and may order removal.

13. (*1*) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the [1][Provincial Government] may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that, if accommodation in a Borstal school is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the [1][Provincial Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 39 of 1948, s. 3.

[3] The words "or to be more than twenty years of age", were inserted by Bom. 10 of 1932, s. 2.

[4] This portion was inserted by Bom. 39 of 1948, s. 3.

[5] These words were added by Bom. 3 of 1934, s. 3.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(2) The [1][Provincial Government] may order the removal of any offender from any one Borstal school to any other Borstal school, [2][established under this Act or to a Borstal school in any other province in British India] [2][or in an acceding state] provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Power to order detention in, or removal of offenders to, a Borstal school in another province.

[4][13A. (1) No order for the detention in or transfer or removal to a Borstal school in any other province in British India [3][or in an acceding State] shall be passed except with the previous concurrence of the officer in charge of such Borstal school and unless the [5][Provincial Government] of the said province, [3][or the Government of the said Acceding State] under any law in force therein or by general or special order, has consented, or is empowered, to receive such offender for detention in such Borstal school;

Power to accept transfers of offenders from another province to a Borstal school in the Presidency.

(2) The officer in charge of a Borstal school established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other province in British India [3][or in an Acceding State]. A person detained in such Borstal school under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 6 and the provisions of this Act shall apply to such person accordingly.

Removal of person detained to civil hospital in Province for medical treatment.

[6][13B. (1) If an offender detained in a Borstal school is suffering from any illness and the Inspector-General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector-General may provide for the removal of such offender to any civil hospital in the Province for the purpose of undergoing medical treatment and for his return to the school after such treatment is undergone.

(2) The period during which an offender is absent from a Borstal school under sub-section (1) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention.]

Power to release on licence.

14. (1) Subject to the prescribed conditions, the Inspector-General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(*a*) [7][servant of the Crown],

(*b*) secular institution,

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 2 of 1936, s. 4.

[3] These words were inserted by Bom. 39 of 1948, ss. 4 and 5.

[4] Section 13A was inserted by Bom. 2 of 1936, s. 5.

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[6] This section was inserted by Bom. 39 of 1948, s. 6.

[7] The words "servant of the Crown" were substituted for the words "officer of Government" by the Adaptation of Indian Laws Order in Council.

(*c*) religious society, or

(*d*) responsible person, as may be approved by the Inspector-General and willing to take charge of the offender.

[1][(*1A*) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 15 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (*1*).]

(*2*) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(*3*) The period during which an offender is absent from a Borstal school during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of licence.

15. (*1*) Subject to the prescribed conditions, the Inspector-General may at any time [2][and in the case of a request made by] the institution, society or person, under whose supervision and authority the offender has by licence been permitted to live [3][shall, after considering the report of the Investigating Committee submitted to him under section 17B] revoke a licence granted under section 14, and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school:

[4][Provided that, if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector-General shall forward the report of the Investigating Committee to the Provincial Government and the Provincial Government may—

(*i*) direct the Inspector-General to revoke the licence as provided in this sub-section, or

(*ii*) itself revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in section 12].

(*2*) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

[5][(*3*) On the revocation of a licence under sub-section (*2*), the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of section 17, be excluded in computing the period for which he has been ordered to be detained in a Borstal school.

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[1] This sub-section was inserted by Bom. 39 of 1948, s. 7.

[2] These words were substituted for the original, *ibid.*, s. 8.

[3] These words were inserted, *ibid.*

[4] This proviso was added, *ibid.*

[5] This sub-section was inserted, *ibid.*

Subsequent supervision.

16. (*1*) When the Inspector-General and the Visiting Committee report that the conduct [1][or progress] of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the [2][Provincial Government] may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to rules made under this Act, may direct.

[3][(*2*) The Provincial Government may, after considering the report of the Investigating Committee forwarded to it under section 17B, direct that the offender who is under supervision in accordance with sub-section (*1*) shall—

(*a*) again be detained in a Borstal school for such period as it may think fit, or

(*b*) if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, undergo imprisonment of such description and for such period as it may direct:

Provided that the total period of supervision, detention and imprisonment under this section shall not exceed one year.

(*3*) The provisions of sub-section (*2*) of section 12 shall apply when an offender is directed to undergo imprisonment under sub-section (*2*) of this section.]

Period of detention.

17. No person shall be detained in a Borstal school after he has, in the opinion of the [2][Provincial Government], attained the age of twenty-three years, or, if in any particular case the [2][Provincial Government] so directs, after he has attained the age of twenty-five years.

Discharge from Borstal school.

[4][**17A.** The [2][Provincial Government] may at any time order any person detained in a Borstal school to be discharged from such school, either absolutely or on such conditions as may be imposed.]

Investigating Committee to investigate into complaints against offenders discharged on probation, etc.

[5][**17B.** (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint an Investigating Committee.

(*2*) The Inspector-General may, by an order in writing, require any offender—

(*a*) who is discharged on licence under section 14 or who is placed under supervision under section 16, and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(*b*) who has broken any of the conditions of the licence granted to him under section 14,

to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(*3*) The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct submit its report to the Inspector General. If the Investigating Committee report that the conduct of such offender has been such that he is unfit for further detention in a Borstal school and in every case where an offender had been directed to remain under supervision under section 16, the Inspector-General shall forward a copy of the report of the Investigating Committee to the Provincial Government.

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[1] These words were inserted by Bom. 39 of 1948, s. 9.

[2] The words "Provincial Government" were substituted for the words "Governor in Council by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was substituted by Bom. 39 of 1948, s. 9.

[4] Section 17A was inserted by Bom. 3 of 1934, s. 4.

[5] This section was inserted by Bom. 39 of 1948, s. 10.

(*4*) The offender shall, during the period of the proceedings under this section, be detained in a Borstal school or in a special ward, or such other suitable part of a prison as the Inspector-General may by general or special order direct.

(*5*) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (*2*) or escapes while detained under sub-section (*4*), he may, on the requisition of the Inspector-General or any officer authorized by him in this behalf, be arrested by any officer of police without warrant and without an order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (*4*), as the case may be.

(*6*) The period beginning from the date on which the order under sub-section (*2*) is passed by the Inspector-General and ending with the day on which an order is passed by the Inspector-General under section 15 or by the Provincial Government under section 15 or 16, as the case may be, shall be excluded in computing the total term of his detention in a Borstal school or in computing the period of one year referred to in section 16.]

Arrest of offender escaping from Borstal school, or escaping from supervision.

18. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal school [1][or has escaped from a civil hospital to which he was removed for treatment under section 13B] or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by licence under section 14, [2][or has committed a breach of any of the conditions imposed under section 17A] may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal school [1][or to the civil hospital] or to such authority, institution, society or person, as the case may be.

Rules.

19. (*1*) The [3][Provincial Government] may make rules for the regulation and management of any Borstal school and for the carrying into effect of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of visiting committees;

(*d*) the classification, control, discipline, training instruction and treatment of offenders ordered to be detained in a Borstal school and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

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[1] These words were inserted by Bom. 39 of 1948, s. 11.

[2] These words, figures and letter were inserted, by Bom. 3 of 1934, s. 5.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[1][(*hh*) the removal of offenders to Borstal schools in other provinces in British India and the reception and detention in a Borstal school established under this Act of offenders transferred from other provinces.]

(*i*) the form and conditions of licences granted under section 14;

(*j*) the supervision of offenders after the expiration of the term of their detention;

(*k*) the transfer of incorrigible offenders from a Borstal school to prison;

[2][(*l*) the conditions on which an offender may be discharged under section 17A;]

[3][(*m*) the constitution, procedure, powers and duties of the Investigating Committee.]

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [4][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a resolution in which both Chambers concur.] If any rule is modified the [6][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Removal of disqualification.

20. The [6][Provincial Government] may, on the recommendation of the Inspector-General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal school on account of such detention.

Appeal or revision.

V of 1898.

21. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period:

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[1] Clause (*hh*) was inserted by Bom. 2 of 1936, s. 6.

[2] Clause (*l*) was added by Bom. 3 of 1934, s. 6.

[3] Clause (*m*) was inserted by Bom. 39 of 1948, s. 12.

[4] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[5] These words were inserted, *ibid.*

[6] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[7] The proviso was deleted by Bom. 39 of 1948, s. 13.